

ASSEMBLY BILL

No. 172

Introduced by Assembly Member Weber

January 24, 2013

An act to amend Section 14838 of the Government Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 172, as introduced, Weber. State agency contracts: microbusiness preference.

Existing law, the Small Business Procurement and Contract Act, provides for various programs to encourage the participation of small businesses, as certified by the Department of General Services, in state agency contracts, including a microbusiness and a disabled veteran business enterprise. Existing law requires directors of state agencies, in awarding prescribed contracts, to provide a 5% preference to small businesses and microbusinesses, and a preference of up to 5% to a nonsmall business that provides for small business or microbusiness subcontractor participation, not to exceed prescribed amounts.

This bill would raise the microbusiness preference to 7% and would raise the preference for a nonsmall business with microbusiness subcontractor participation to a maximum of 7%.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14838 of the Government Code is
2 amended to read:

1 14838. In order to facilitate the participation of small business,
2 including microbusiness, in the provision of goods, information
3 technology, and services to the state, and in the construction
4 (including alteration, demolition, repair, or improvement) of state
5 facilities, the directors of the department and other state agencies
6 that enter those contracts, each within their respective areas of
7 responsibility, shall do all of the following:

8 (a) Establish goals, consistent with those established by the
9 Office of Small Business Certification and Resources, for the extent
10 of participation of small businesses, including microbusinesses,
11 in the provision of goods, information technology, and services to
12 the state, and in the construction of state facilities.

13 (b) Provide for small business preference, or nonsmall business
14 preference for bidders that provide for small business and
15 microbusiness subcontractor participation, in the award of contracts
16 for goods, information technology, services, and construction, as
17 follows:

18 (1) In solicitations where an award is to be made to the lowest
19 responsible bidder meeting specifications, the preference to small
20 business ~~and microbusiness~~ shall be 5 percent, *and the preference*
21 *to microbusiness shall be 7 percent*, of the lowest responsible
22 bidder meeting specifications. The preference to nonsmall business
23 bidders that provide for small business ~~or microbusiness~~
24 subcontractor participation shall ~~be~~, *be* up to a maximum of 5
25 percent of the lowest responsible bidder meeting specifications,
26 *and the preference for nonsmall business bidders that provide for*
27 *microbusiness subcontractor participation shall be up to a*
28 *maximum of 7 percent of the lowest responsible bidder meeting*
29 *specifications*, determined according to rules and regulations
30 established by the Department of General Services.

31 (2) In solicitations where an award is to be made to the highest
32 scored bidder based on evaluation factors in addition to price, the
33 preference to small business ~~or microbusiness~~ shall be 5 percent,
34 *and the preference to microbusiness shall be 7 percent*, of the
35 highest responsible bidder's total score. The preference to nonsmall
36 business bidders that provide for small business ~~or microbusiness~~
37 subcontractor participation shall be up to a maximum 5 percent of
38 the highest responsible bidder's total score, *and the preference to*
39 *nonsmall business bidders that provide for microbusiness*
40 *subcontractor participation shall be up to a maximum of 7 percent*

1 *of the highest responsible bidder's total score* determined according
2 to rules and regulations established by the Department of General
3 Services.

4 (3) The preferences under paragraphs (1) and (2) shall not be
5 awarded to a noncompliant bidder and shall not be used to achieve
6 any applicable minimum requirements.

7 (4) The preference under paragraph (1) shall not exceed fifty
8 thousand dollars (\$50,000) for any bid, and the combined cost of
9 preferences granted pursuant to paragraph (1) and any other
10 provision of law shall not exceed one hundred thousand dollars
11 (\$100,000). In bids in which the state has reserved the right to
12 make multiple awards, this fifty thousand dollar (\$50,000)
13 maximum preference cost shall be applied, to the extent possible,
14 so as to maximize the dollar participation of small businesses,
15 including microbusinesses, in the contract award.

16 (c) Give special consideration to small businesses and
17 microbusinesses by both:

18 (1) Reducing the experience required.

19 (2) Reducing the level of inventory normally required.

20 (d) Give special assistance to small businesses and
21 microbusinesses in the preparation and submission of the
22 information requested in Section 14310.

23 (e) Under the authorization granted in Section 10163 of the
24 Public Contract Code, make awards, whenever feasible, to small
25 business and microbusiness bidders for each project bid upon
26 within their prequalification rating. This may be accomplished by
27 dividing major projects into subprojects so as to allow a small
28 business or microbusiness contractor to qualify to bid on these
29 subprojects.

30 (f) Small business and microbusiness bidders qualified in
31 accordance with this chapter shall have precedence over nonsmall
32 business bidders in that the application of a bidder preference for
33 which nonsmall business bidders may be eligible under this section
34 or any other provision of law shall not result in the denial of the
35 award to a small business or microbusiness bidder. In the event of
36 a precise tie between the low responsible bid of a bidder meeting
37 specifications of a small business or microbusiness, and the low
38 responsible bid of a bidder meeting the specifications of a disabled
39 veteran-owned small business or microbusiness, the contract shall
40 be awarded to the disabled veteran-owned small business or

- 1 microbusiness. This provision applies if the small business or
- 2 microbusiness bidder is the lowest responsible bidder, as well as
- 3 if the small business or microbusiness bidder is eligible for award
- 4 as the result of application of the small business and microbusiness
- 5 bidder preference granted by subdivision (b).

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